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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/577,311	05/23/2000	Philip E. Chalberg	CHALB-86	4757

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EXAMINER

MARSH, STEVEN M

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 11/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/577,311

Applicant(s)

CHALBERG ET AL.

Examiner

Steven M Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This is the third office action for US Application 09/577,311 for a Method and Apparatus for Mounting an Electric Water Pump filed by Philip E. Chalberg et al. on May 23, 2000.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 16, 2002 has been entered.

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Claim Rejections - 35 USC § 103

Claims 1-8 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,033,531 to Levine in view of U.S. Patent 4,339,102 to Schweitzer. Claims 1-3, 5-8, and 11-13 are rejected because Levine discloses an apparatus for holding an electric motor-operated device which has a stand (18) having a support plate (24) and a slotted plate (26) which are integral to one another. The slotted plate extends perpendicular to the support plate and is affixed to the support plate. The slotted plate has a plurality of elongated slots (30) at selected space-apart locations with some slots being located further from the support plate than other slots. The apparatus also comprises an electric motor-operated device (10) which has spaced apart mounting plates (28) and can be positioned in a direction perpendicular to the support plate.

Levine does not disclose hooks extending from the mounting plate of the electric motor for insertion through the slots of the stand. Schweitzer discloses a jar-mounting device for mounting a jar to a perforated board support in a cantilevered state. The

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device (14) can be positioned in different locations along a perforated board (10) by inserting a set of hooks (30 and 33) through a selected aperture (12) along the board. The electric motor and mounting plate (28) taught by Levine are supported by bolts extending from the mounting plate and through the slots of the stand (18), rather than hooks. However, it would have been obvious to one of ordinary skill in the art at the time of the present invention to have supported the mounting plate with hooks, as taught by Schweitzer, rather than bolts, as taught by Levine, for the purpose of providing a support stand which allows the apparatus to be repositioned without the use of tools. It also would have been obvious to one of ordinary skill in the art at the time of the present invention to eliminate the second bracket (20) taught by Levine after substituting a pair of hooks for the bolts of the support, as taught by Schweitzer, thereby resulting in a motor supported in a cantilevered state, for the purpose of conserving material,

Levine also fails to disclose four columns of slots in the slotted plate, whereby a first pair of columns are spaced from each other the same distance that a second pair of columns are spaced from each other. The jar mounting apparatus taught by Schweitzer has at least four columns of apertures, wherein a first pair of columns is spaced from each other the same distance as a second pair of columns. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided additional columns (at least 4 total) of elongated slots on the slotted plate taught by Levine, as taught by Schweitzer, for the purpose of providing the motor a plurality of locations at which it could be supported.

Claim 4 is also rejected under 35 U.S.C. 103(a) as being unpatentable over Levine in view of Schweitzer. Levine in view of Schweitzer does not specifically disclose an apparatus for holding and positioning an electric water pump. However, column 1, line 7 reads, "This invention relates generally to devices for mounting various equipment, such as electric motors, refrigerant tanks, and the like". This would appear to anticipate an electric water pump and therefore it would have been obvious to one of ordinary skill in the art at the time of the present invention to use an electric water pump rather than an electric motor.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levine. Levine discloses a stand (18) that can be formed by bending a unitary planar member to provide a support plate (24) and an attachment plate (26) which is substantially perpendicular to the support plate. There are a plurality of mating elements (30) in the attachment plate and the stand could be placed adjacent to a tub wall with the attachment plate parallel to the tub wall. There is a second mating element (32) that is integral to the motor 10 (by way of the mounting plate 28) that is mated with the first mating element.

Conclusion

This is a continuation of applicant's earlier Application No. 09/577,311. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL**

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even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.



Steven Marsh

October 28, 2002



ANITA KING
PRIMARY EXAMINER